

House Bill 180 (AS PASSED HOUSE AND SENATE)

By: Representatives Manning of the 32nd, Benton of the 31st, Byrd of the 20th, Talton of the 145th, and Benfield of the 85th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 49 of the Official Code of Georgia Annotated, relating to the
2 Department of Human Resources, so as to permit the department to obtain criminal history
3 information from adult persons who reside in a home where a child in the custody of the
4 department has been or may be placed or who provide care to a child who is the subject of
5 a child protective services referral, complaint, or investigation; to permit the department to
6 obtain criminal history information based on a name only for a child to be placed under
7 exigent circumstances; to provide for the establishment of a uniform method of obtaining
8 criminal history information; to permit the department to obtain criminal history information
9 based on a name only from the Georgia Crime Information Center; to provide for related
10 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 2 of Title 49 of the Official Code of Georgia Annotated, relating to the Department
14 of Human Resources, is amended by striking subsection (b) of Code Section 49-2-14, relating
15 to record search for conviction data on prospective employees, and inserting in its place the
16 following:

17 "(b) The department may receive from any law enforcement agency conviction data that
18 is relevant to a person whom the department, its contractors, or a district or county health
19 agency is considering as a final selectee for employment in a position the duties of which
20 involve direct care, treatment, custodial responsibilities, or any combination thereof for its
21 clients. The department may also receive conviction data which is relevant to a person
22 whom the department, its contractors, or a district or county health agency is considering
23 as a final selectee for employment in a position if, in the judgment of the employer, a final
24 employment decision regarding the selectee can only be made by a review of conviction
25 data in relation to the particular duties of the position and the security and safety of clients,
26 the general public, or other employees. Further, the department or any licensed

1 child-placing agency, designated by the department to assist it in preparing studies of
2 homes in which children in its custody may be placed, may receive from any law
3 enforcement agency conviction data that is relevant to any adult person who resides in a
4 home where children in the custody of the department may be placed. ~~In addition, the~~
5 ~~department may receive from any law enforcement agency conviction data that is relevant~~
6 ~~to any adult person who the department has reason to believe has contact with a child who~~
7 ~~is the subject of a child protective services referral, complaint, or investigation."~~

8 SECTION 2.

9 Said Code section is further amended by adding at the end thereof new subsections (g) and
10 (h) to read as follows:

11 "(g) The department may receive from any law enforcement agency criminal history
12 information, including arrest and conviction data, and any and all other information which
13 it may be provided pursuant to state or federal law which is relevant to any adult person
14 who resides in a home where children in the custody of the department have been or may
15 be placed or which is relevant to any adult person who resides in the home of or provides
16 care to a child who is the subject of a child protective services referral, complaint, or
17 investigation to the fullest extent permissible by federal and state law, including but not
18 limited to Public Law 92-544. The department shall establish a uniform method of
19 obtaining criminal history information under this subsection. Such method shall require
20 the submission to the Georgia Crime Information Center of two complete sets of fingerprint
21 cards together with any required records search fee. Upon receipt thereof, the Georgia
22 Crime Information Center shall promptly transmit one set of the fingerprints submitted by
23 the department to the Federal Bureau of Investigation for a search of bureau records and
24 an appropriate report and shall retain the other set and promptly conduct a search of its own
25 records and records to which it has access. Such method shall also permit the submission
26 of the names of such adult persons, alone, to the proper law enforcement agency when the
27 department is considering placement of a child in exigent circumstances for a name based
28 check of such adult person's criminal history information as maintained by the Georgia
29 Crime Information Center and the Federal Bureau of Investigation. In such exigent
30 circumstances, the department shall submit two complete sets of fingerprint cards of those
31 adult persons in the placement home, together with any required records search fee, to the
32 Federal Bureau of Investigation within 15 calendar days of the date of the name based
33 check on that person. Fingerprint cards shall be forwarded to the Federal Bureau of
34 Investigation through the Georgia Crime Information Center. Following the submission
35 of such fingerprint cards, the department may receive the criminal history information,
36 including arrest and conviction data, relevant to such person. In the event that a child has

been placed in exigent circumstances, a name based records search has been requested for any adult person of the placement household, and that adult refuses to provide fingerprints after being requested to do so by the department, the child shall be immediately removed from the placement household by the department, provided that the child is in the custody of the department.

(h) Further, the department shall be authorized to conduct a name/descriptor based check of any adult person's criminal history information, including arrest and conviction data, and other information from the Georgia Crime Information Center regarding any adult person who resides in a home where children in the custody of the department have been or may be placed or which is relevant to any adult person who resides in the home of or provides care to a child who is the subject of a child protective services referral, complaint, or investigation without the consent of such adult person and without fingerprint comparison to the fullest extent permissible by federal and state law."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.